

Central Intelligence Agency



Washington, D.C. 20505

28 June 1982

Honorable Glenn English, Chairman
Subcommittee on Government Information and
Individual Rights
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of 20 May 1982 regarding this Agency's proposed amendment of its statement of general routine uses of CIA records systems. I appreciate your concern about providing United States persons, in accordance with the Privacy Act, with an adequate description of how data in CIA records systems might be used. Consequently, I wish to take this opportunity to respond to your concern.

You have noted that the authors of the Privacy Act said that the routine use provision "should serve as a caution to agencies to think out in advance what uses it will make of information." In addition, you have noted that neither the Privacy Act nor the OMB Guidelines mandate how specific a routine use must be, and that the routine use provisions were not intended to interfere with the ability of Federal agencies to carry out their lawful functions. I agree with these observations.

You also state, however, that the proposed statement of routine use "is inconsistent with the purpose of the Privacy Act" and "authorizes in the broadest terms possible every disclosure that the CIA might wish to make." (emphasis added) I respectfully disagree. In our opinion the proposed statement of routine use would tightly control contemplated disclosures. It would not only prohibit disclosures unrelated to the Agency's execution of its lawful functions, but would also proscribe disclosures to entities or individuals who were not proper recipients of information pursuant to applicable law. Congressman William S. Moorhead, originator of the House version of the Privacy Act, noted that the routine use provision of the Act is "intended to prohibit gratuitous, ad hoc, disseminations for private or other irregular purposes." The proposed routine use would preclude any such gratuitous disseminations and also

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would bar disseminations for any non-official or irregular purposes. The proposed routine use clearly states that any disclosure must be "necessary or appropriate" to CIA's ability to carry out its responsibilities under the law. Those responsibilities are very carefully defined and limited to the conduct of intelligence activities as set forth in Executive Order 12333 and the National Security Council Intelligence Directives, and implementing procedures and directives (some of which are classified).

Moreover, the House Report on the Privacy Act noted that a "non-routine" use is one in which the information "is used for a purpose other than originally intended." Because the National Security Act of 1947, as amended, Executive Order 12333 and the National Security Council Intelligence Directives, and implementing procedures and directives, set forth the only purposes for which information can be collected and disseminated by this Agency, any dissemination pursuant thereto would be routine.

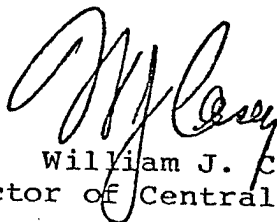
As you know, this Agency's mission requires it to collect and disseminate intelligence and counterintelligence information to enable it to inform the President, other agencies, and Congress, about matters vital to the conduct of foreign policy and national security programs. This Agency is not a law enforcement agency; it has no power to subpoena records or compel the furnishing of information. Unlike other agencies, virtually our entire stock in trade is foreign intelligence and counterintelligence information. Simply put, we are in the intelligence business. We collect it, we maintain it, we analyze it, we disseminate it. Consistent with the rights of U.S. persons, this Agency must make use of intelligence information to enable it to faithfully carry out its mission.

The Agency has published the proposed general routine use statement in order to advise the American people concerning the scope of dissemination of information that the Agency may find necessary to carry out its responsibilities under statute and other applicable law. Congressman Moorhead noted that a routine use "does not encompass merely the common and ordinary uses to which records are put, but also includes all of the proper and necessary uses even if any such use occurs infrequently." The proposed routine use statement would ensure that all normal and proper uses would be authorized. In the alternative, any attempt by the Agency to compile a comprehensive detailed listing of every possible frequent and infrequent routine use would involve the verbatim reiteration of many of the provisions of Executive Order 12333 and the National Security Council Intelligence

Directives, and implementing procedures and directives, and would not be very helpful. It also would leave the Agency facing the risk of inadvertently leaving out some otherwise authorized use of intelligence information, with discovery of the omission only made at the time a critical dissemination is necessary. Such an occurrence would leave this Agency in the awkward position of being forced to choose between declining to make a dissemination of information that may well be critical to the national security and making such a dissemination at the risk of being held in violation of law. I do not believe such a choice was ever in the contemplation of Congress when it enacted the Privacy Act.

Nevertheless, I very much appreciate receiving your comments on this Agency's proposed amendment of its statement of general routine uses. I can assure you this Agency has given your comments careful study and consideration. We intend to evaluate our experience with this proposed routine use statement, keeping your comments in mind. Of course, we will consider making appropriate modifications or adjustments in light of that experience.

Sincerely,



William J. Casey
Director of Central Intelligence